



Town Council Agenda Report

SUBJECT: Resolution

CONTACT PERSON/NUMBER: Herb Hyman-(954) 797-1016

TITLE OF AGENDA ITEM:

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE HASKELL COMPANY FOR DESIGN/BUILD IMPROVEMENTS TO WATERFORD PARK.

REPORT IN BRIEF:

A competitive proposal process resulted in the Town's selection of The Haskell Company as the best qualified firm to provide design/build services for improvements to Waterford Park. The scope of services for this project includes the construction of an in-line roller blade hockey rink, expansion of the parking lot with a recreational path to allow for wheelchair access to the park, parking area lighting, hockey rink lighting, playground lighting, and landscaping and irrigation. A team of staff members negotiated the attached contract which has been reviewed by the Town's Attorney.

PREVIOUS ACTIONS:

Selected The Haskell Company as the best qualified firm by Resolution R-99-344.

CONCURRENCES:

The Town's Attorney and members of the Bid Specification Committee have reviewed the contract and agree with its terms and conditions.

FISCAL IMPACT:

Has request been budgeted? yes

Funding appropriated? Yes. \$99,995.50

Account Name: Capital Improvement Program-Waterford Park

Additional Comments: Not applicable

RECOMMENDATION(S):

Motion to approve the resolution.

Attachment(s):

Resolution

Contract document

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE HASKELL COMPANY FOR DESIGN/BUILD IMPROVEMENTS TO WATERFORD PARK.

WHEREAS, the Town Council previously approved the selection of The Haskell Company as the best qualified firm to provide design/build services for Waterford Park by Resolution R-99-344; and

WHEREAS, it is in the Town's best interest to execute a contract for these services; and

WHEREAS, after review, the Town Council wishes to authorize the Mayor to execute a contract with The Haskell Company.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council authorizes the Mayor to execute a contract with The Haskell Company for design/build improvements to Waterford Park attached hereto and identified as Attachment "A".

SECTION 2. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2000

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2000

D B I A



DESIGN-BUILD
INSTITUTE OF AMERICA

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND DESIGN-
BUILDER — LUMP SUM**

Document No. 525

First Edition, 1998

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Washington, DC

DBIA



**DESIGN-BUILD
INSTITUTE OF AMERICA**

Standard Form of Agreement Between Owner and Design-Builder — Lump Sum

*This document has important legal consequences. Consultation with
an attorney is recommended with respect to its completion or modification.*

This **AGREEMENT** is made as of the _____ day of _____
in the year of 2000, by and between the following parties, for services in connection with the Project
identified below.

OWNER:
(Name and address)

Town of Davie
6591 Orange Drive
Davie, Florida 33314-3390

DESIGN-BUILDER:
(Name and address)

The Haskell Company (A Florida Corporation)
111 Riverside Avenue
Jacksonville, Florida 32202

PROJECT:
*(Include Project name and location
as it will appear in the Contract
Documents)*

Name:
Design-Build Improvements to
Waterford Park, Bid No. 99-131

Location:
15090 South Waterford Drive
Davie, Florida

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree
as set forth herein.

Article 1

Scope of Work

1.1 Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents.

Article 2

Contract Documents

2.1 The Contract Documents are comprised of the following:

- .1 All written modifications, amendments and change orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (1998 Edition) ("General Conditions of Contract");
- .2 This Agreement, including all exhibits and attachments, executed by Owner and Design-Builder;
- .3 Written Supplementary Conditions, if any, to the General Conditions of Contract;
- .4 The General Conditions of Contract;
- .5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract;
- .6 Design-Builder's Deviation List, if any, contained in Design-Builder's Proposal, which shall specifically identify any and all deviations from Owner's Project Criteria;
- .7 Owner's Project Criteria;
- .8 Design-Builder's Proposal, except for the Deviation List, submitted in response to Owner's Project Criteria; and
- .9 The following other documents, if any: *(Identify, for example, Unit Price Schedules, Design-Builder's allowances, Performance Standard Requirements, Owner's Permit List and any other documents Owner and Design-Builder elect to make a Contract Document)*
 - A) Town of Davie RFP Bid No. 99-131, dated January 13, 2000;
 - B) The Haskell Company Bid Proposal for Bid No. 99-131, dated February 1, 2000;
 - C) Certificate of Insurance;
 - D) Builder's Deviation List

Article 3

Interpretation and Intent

3.1 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof.

3.2 Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

3.3 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 4

Ownership of Work Product

4.1 **Work Product.** All drawings, specifications and other documents and electronic data furnished by Design-Builder to Owner under this Agreement ("Work Product") are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including the copyrights thereto.

Deleted
X

~~4.2 **Owner's Limited License Upon Payment in Full.** Upon Owner's payment in full for all Work performed under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner's occupancy of the Project, conditioned on Owner's express understanding that its use of the Work Product is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the "Indemnified Parties").~~

4.3 **Owner's Limited License Upon Owner's Termination for Convenience or Design-Builder's Election to Terminate.** If Owner terminates the Project for its convenience as set forth in Article 8 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Design-Builder shall, upon Owner's payment in full of the amounts due Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, conditioned on the following:

- .1 Use of the Work Product is at Owner's sole risk without liability or legal exposure to any Indemnified Party; and
- .2 Owner agrees to pay Design-Builder the additional sum of Nine Thousand Dollars (\$ 9,000.00) as compensation for the right to use the Work Product in accordance with this Article 4 if Owner resumes the Project through its employees, agents, or third parties.

4.4 **Owner's Limited License Upon Design-Builder's Default.** If this Agreement is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract and (i) it is determined that Design-Builder was in default and (ii) Owner has fully satisfied all of its obligations under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with

Owner's completion and occupancy of the Project. This limited license is conditioned on Owner's express understanding that its use of the Work Product is at Owner's sole risk and without liability or legal exposure to any Indemnified Party.

4.5 Owner's Indemnification for Use of Work Product. If Owner uses the Work Product under any of the circumstances identified in this Article 4, Owner shall defend, indemnify and hold harmless the Indemnified Parties from and against any and all claims, damages, liabilities, losses and expenses, including attorneys' fees, arising out of or resulting from the use of the Work Product.

Article 5

Contract Time

5.1 Date of Commencement. The Work shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed ("Date of Commencement") unless the parties mutually agree otherwise in writing.

5.2 Substantial Completion and Final Completion

5.2.1 Substantial Completion of the entire Work shall be achieved no later than one hundred twenty (120) calendar days after the Date of Commencement ("Scheduled Substantial Completion Date").

5.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved as follows: *(Insert any interim milestones for portions of the Work with different scheduled dates for Substantial Completion)*

- None -

5.2.3 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable.

5.2.4 All of the dates set forth in this Article 5 ("Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

5.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

5.4 Liquidated Damages. Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by one (1) days after the Scheduled Substantial Completion Date (the "LD Date"), Design-Builder shall pay Owner one hundred Dollars (\$ 100.00) as liquidated damages for each day that Substantial Completion extends beyond the LD Date. The liquidated damages provided herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature incurred by Owner which are occasioned by any delay in achieving Substantial Completion. *(If liquidated damages are applicable to any dates set forth in Section 5.2.2 hereof, this Section 5.4 will need to be modified accordingly)*

Deleted

~~5.5 Early Completion Bonus. If Substantial Completion is attained on or before _____ (~~_____~~) days before the Scheduled Substantial Completion Date (the "Bonus Date"), Owner shall pay Design-Builder at the time of Final Payment under Section 7.3 hereof an early completion bonus of _____ Dollars (\$ _____) for each day that Substantial Completion is attained earlier than the Bonus Date. ~~(If an early completion bonus is applicable to any dates set forth in Section 5.2.2 hereof, this Section 5.5 will need to be modified accordingly)~~~~

Article 6

Contract Price

6.1 **Contract Price.** Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract the sum of * _____ Dollars (\$ 99,995.50) ("Contract Price"), subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.

*ninety-nine thousand, nine hundred ninety-five and fifty/cents.

Deleted

~~6.2 Markups for Changes. If the Contract Price requires an adjustment due to changes in the Work, and the cost of such changes is determined under Sections 9.4.1.3 or 9.4.1.4 of the General Conditions of Contract, the following markups shall be allowed on such changes: ~~(insert applicable markup)~~~~

Article 7

Procedure for Payment

7.1 Progress Payments

7.1.1 Design-Builder shall submit to Owner on the twentieth (20th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

7.1.2 Owner shall make payment ~~within ten (10) days~~ within ten (10) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

the Florida Prompt Payment Act and with

7.2 Retainage on Progress Payments

7.2.1 Owner will retain ten percent (10 %) of each Application for Payment provided, however, that when fifty percent (50%) of the Work has been completed by Design-Builder, Owner will not retain any additional amounts from Design-Builder's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

Partial
Deletions

7.2.2 Upon ~~Substantial~~ Completion of the entire Work ~~or, if applicable, any portion of the Work~~, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work ~~or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.~~

7.3 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment ~~within thirty (30) days~~ after Owner's receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

~~Deletes~~ **7.4 Interest.** Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest ~~commencing five (5) days after payment is due at the rate of _____ percent~~ ~~(____%)~~ in accordance with the Florida Prompt Payment Act.

7.5 Record Keeping and Finance Controls. With respect to changes in the Work performed on a cost basis by Design-Builder pursuant to the Contract Documents, Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access from time to time, upon reasonable notice, to Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to changes in the Work performed on a cost basis in accordance with the Contract Documents, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment, or as otherwise required by law. Some records may be subject to public access and retainage of documents must be made in accordance with Florida law.

Article 8

Termination for Convenience

8.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

- .1 All Work executed and for proven loss, cost or expense in connection with the Work;
- .2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and
- .3 *(Choose one of the following:)*

~~Deletion~~ The fair and reasonable sums for overhead and profit ~~as determined by the Design-Builder~~ anticipated had the Agreement not been terminated by the Owner.
or

~~Deletion~~ Overhead and profit in the amount of _____ percent (____%) on the sum of items 1 and 2 above.

~~Deleted~~ **8.2** In addition to the amounts set forth in Section 8.1 above, Design-Builder shall be entitled to receive one of the following as applicable:

~~Deleted~~ .1 If Owner terminates this Agreement prior to commencement of construction, Design-Builder shall be paid _____ percent (____%) of the remaining balance of the Contract Price.

~~Deleted~~ .2 If Owner terminates this Agreement after commencement of construction, Design-Builder shall be paid _____ percent (____%) of the remaining balance of the Contract Price.

Article 10
Bonds and Insurance

10.1 Insurance. Design-Builder shall procure in accordance with Article 5 of the General Conditions of Contract the following insurance coverages.* *(Attach Insurance Schedule indicating the required coverage, amount of required coverage, duration of coverage, required rating of insurance carriers and any other insurance requirements required of the parties)*

*As specified in RFP Bid No. B-99-131.

10.2 Bonds and Other Performance Security. Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security: *(Insert the amount of bonds and any other conditions of the bonds or other security)*

Performance and Payment Bond in the amount of 100% of the contract price. All bonds will be posted to comply with Florida Statute 255.05.

Article 11
Other Provisions

11.1 Other provisions, if any, are as follows: *(Insert any additional provisions)*

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

(Name of Owner)

(Signature)

(Printed Name)

(Title)

Date: _____

DESIGN-BUILDER:

The Haskell Company

(Name of Design-Builder)

(Signature)

Norman C. Anderson

(Printed Name)

Project Director

(Title)

Date: 2/21/00

Caution: You should sign an original DBIA document which has this caution printed in blue. An original assures that changes will not be obscured as may occur when documents are reproduced.

DBIA



DESIGN-BUILD
INSTITUTE OF AMERICA

STANDARD FORM OF GENERAL CONDITIONS OF CONTRACT BETWEEN OWNER AND DESIGN-BUILDER

Document No. 535

First Edition, 1998

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Washington, DC

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**DESIGN-BUILD
INSTITUTE OF AMERICA**

Standard Form of General Conditions of Contract Between Owner and Design-Builder

*This document has important legal consequences. Consultation with
an attorney is recommended with respect to its completion or modification.*

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Article 1

General

1.1 Mutual Obligations

1.1.1 Owner and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions

1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder under either DBIA Document No. 525, *Standard Form of Agreement Between Owner and Design-Builder — Lump Sum* (1998 Edition) or DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder — Cost Plus Fee with an Option for a Guaranteed Maximum Price* (1998 Edition).

1.2.2 *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.3 *Design Consultant* is a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder or Subcontractor, to furnish design services required under the Contract Documents.

1.2.4 *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

1.2.5 *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (1998 Edition).

1.2.6 *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.7 *Owner's Project Criteria* are developed by or for Owner to describe Owner's program requirements and objectives for this Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, performance requirements and other Project-specific technical materials and requirements.

1.2.8 *Site* is the land or premises on which the Project is located.

1.2.9 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

1.2.10 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

1.2.11 *Substantial Completion* is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete so that Owner can occupy and use the Project or a portion thereof for its intended purposes.

1.2.12 *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

Article 2

Design-Builder's Services and Responsibilities

2.1 General Services

2.1.1 Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act

on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

2.1.2 Design-Builder shall provide Owner with a monthly status report detailing the progress of the Work, including whether (i) the Work is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) health and safety issues exist in connection with the Work, and (iv) other items require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s).

2.1.3 Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of and response to the schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.1.4 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.2 Design Professional Services

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit

Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant.

2.3 Standard of Care for Design Professional Services

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. Notwithstanding the preceding sentence, if the parties agree upon specific performance standards for any aspect of the Work, which standards are to be set forth in an exhibit to the Agreement entitled "Performance Standard Requirements," the design professional services shall be performed to achieve such standards.

2.4 Design Development Services

2.4.1 Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, or, if applicable, previously submitted design submissions. Minutes of the meetings will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, Owner shall review and approve the interim design submissions in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

2.4.2 Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting. The parties shall have a design review meeting to discuss, and Owner shall review

and approve, the Construction Documents in accordance with the procedures set forth Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

2.4.3 Owner's review and approval of interim design submissions and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim design submissions and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner.

2.4.4 To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements

2.5.1 Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.5.2 The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

2.6 Government Approvals and Permits

2.6.1 Except as identified in an Owner's Permit List attached as an exhibit to the Agreement, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of

the Work by any government or quasi-government entity having jurisdiction over the Project.

2.6.2 Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.7 Design-Builder's Construction Phase Services

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.7.3 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance.

2.7.4 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.7.5 Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder

agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7.6 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

2.8 Design-Builder's Responsibility for Project Safety

2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.8.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident

arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.8.3 Design-Builder's responsibility or safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

2.9 Design-Builder's Warranty

2.9.1 Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than Design-Builder or anyone for whose acts Design-Builder may be liable. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

2.10 Correction of Defective Work

2.10.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents.

2.10.2 Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction,

removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day periods identified herein shall be deemed inapplicable.

2.10.3 The one year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

Article 3

Owner's Services and Responsibilities

3.1 Duty to Cooperate

3.1.1 Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 Owner shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

3.2 Furnishing of Services and Information

3.2.1 Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

- .1** Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;
- .2** Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;
- .3** Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;
- .4** A legal description of the Site
- .5** To the extent available, as-built and record drawings of any existing structures at the Site; and
- .6** To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

3.2.2 Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Financial Information

~~**3.3.1** At Design-Builder's request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.~~

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~~3.3.2 Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.~~

3.4 Owner's Representative

3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations including any errors, omissions or defects in the performance of the Work.

3.5 Government Approvals and Permits

3.5.1 Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in the Owner's Permit List attached as an exhibit to the Agreement.

3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors

3.6.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

Article 4

Hazardous Conditions and Differing Site Conditions

4.1 Hazardous Conditions

4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

~~4.1.2 Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.~~

~~4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.~~

4.1.4 Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

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~~4.1.5 To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly for any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site.~~

4.1.6 Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

4.2 Differing Site Conditions

4.2.1 Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition.

4.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than fourteen (14) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

Article 5

Insurance and Bonds

5.1 Design-Builder's Insurance Requirements

5.1.1 Design-Builder is responsible for procuring and maintaining from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating set forth in the Agreement, the following insurance coverages for certain claims which may arise from or out of the performance of the Work and obligations under the Contract Documents:

- .1 Coverage for claims arising under workers' compensation, disability and other similar employee benefit laws applicable to the Work;
- .2 Coverage for claims by Design-Builder's employees for bodily injury, sickness, disease, or death;
- .3 Coverage for claims by any person other than Design-Builder's employees for bodily injury, sickness, disease, or death;
- .4 Coverage for usual personal injury liability claims for damages sustained by a person as a direct or indirect result of Design-Builder's employment of the person, or sustained by any other person;
- .5 Coverage for claims for damages ~~(other than to the Work)~~ because of injury to or destruction of tangible property, including loss of use; Deletion
- .6 Coverage for claims of damages because of personal injury or death, or property damage resulting from ownership, use and maintenance of any motor vehicle; and
- .7 Coverage for contractual liability claims arising out of Design Builder's obligations under Section 7.4.1 hereof, as set forth in Article 10 of the Agreement. Revision

5.1.2 Design-Builder's liability insurance required by Section 5.1.1 above shall be written for the coverage amounts set forth in the Agreement and shall include completed operations insurance for the period of time set forth in the Agreement.

5.1.3 Design-Builder's liability insurance set forth in Sections 5.1.1.1 through 5.1.1.7 above shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

5.1.4 To the extent Owner requires Design-Builder or any Design Consultant to provide professional liability insurance for claims arising from the negligent performance of design services by Design-Builder or the Design Consultant, the coverage limits, duration and other specifics of such insurance shall be as set forth in the Agreement. Any professional liability shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project. Such policies shall be provided prior to the commencement of any design services hereunder.

5.1.5 Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner.

5.2 Owner's Liability Insurance

5.2.1 Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located such liability insurance to protect Owner from claims which may arise from the performance of Owner's obligations under the Contract Documents or Owner's conduct during the course of the Project.

5.3 Owner's Property Insurance

5.3.1 Unless otherwise provided in the Contract Documents, Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon the entire Project to the full

insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants, Subcontractors and Sub-Subcontractors, and shall insure against the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder's Application for Payment and approved by Owner.

5.3.2 Unless the Contract Documents provide otherwise, Owner shall procure and maintain boiler and machinery insurance that will include the interests of Owner, Design-Builder, Design Consultants, Subcontractors and Sub-Subcontractors.

5.3.3 Prior to Design-Builder commencing any Work, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Design-Builder. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Builder with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

5.3.4 Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

5.3.5 Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts.

5.4 Bonds and Other Performance Security

5.4.1 If Owner requires Design-Builder to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.

Article 6

Payment

6.1 Schedule of Values

6.1.1 Within ten (10) days of execution of the Agreement, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

6.2 Monthly Progress Payments

6.2.1 On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof.

6.2.2 The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are

suitably stored at either the Site or another acceptable location, (ii) the equipment and materials are protected by suitable insurance and (iii) upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

6.2.3 The Application for Payment shall constitute Design-Builder's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.3 Withholding of Payments

6.3.1 On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

6.3.2 Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

6.4 Right to Stop Work and Interest

6.4.1 If Owner fails to pay Design-Builder any amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

6.5 Design-Builder's Payment Obligations

6.5.1 Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

6.6 Substantial Completion

6.6.1 Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete. Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents. If such Work is substantially complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

6.6.2 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

6.6.3 Owner, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and Owner have obtained the consent of their

sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

6.7 Final Payment

6.7.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has completed all of the Work in conformance with the Contract Documents.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

- .1 an affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;
- .2 a general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;
- .3 consent of Design-Builder's surety, if any, to final payment;
- .4 all operating manuals, warranties and other deliverables required by the Contract Documents; and
- .5 certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

6.7.3 Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial

Completion and (iii) the terms of any special warranties required by the Contract Documents.

Article 7

Indemnification

7.1 Patent and Copyright Infringement

7.1.1 Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

7.1.2 If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement or violation of any patent or copyright.

7.2 Tax Claim Indemnification

7.2.1 If, in accordance with Owner's direction, an exemption for all or part of the Work is claimed for taxes, Owner shall indemnify, defend and hold harmless Design-Builder from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with Owner's directive.

7.3 Payment Claim Indemnification

7.3.1 Providing that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.4 Design-Builder's General Indemnification

7.4.1 Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its officers, directors, employees and agents from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

7.4.2 If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligation set forth in Section 7.4.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

7.5 Owner's General Indemnification

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7.5.1 Owner, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Design-Builder and any of Design-Builder's officers, directors, employees, or agents from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Owner's separate contractors or anyone for whose acts any of them may be liable.

Article 8

Time

8.1 Obligation to Achieve the Contract Times

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

8.2 Delays to the Work

8.2.1 If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, wars, floods, labor disputes, unusual

delay in transportation, epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God.

8.2.2 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for those events set forth in Section 8.2.1 above that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

Article 9

Changes to the Contract Price and Time

9.1 Change Orders

9.1.1 A Change Order is a written instrument issued after execution of the Agreement; signed by Owner and Design-Builder, stating their agreement upon all of the following:

- .1 The scope of the change in the Work;
- .2 The amount of the adjustment to the Contract Price; and
- .3 The extent of the adjustment to the Contract Time(s).

9.1.2 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustment for such changes.

9.1.3 If Owner requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

9.2 Work Change Directives

9.2.1 A Work Change Directive is a written order prepared and signed by Owner, directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

9.3 Minor Changes in the Work

9.3.1 Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

9.4 Contract Price Adjustments

9.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

- .1** Unit prices set forth in the Agreement or as subsequently agreed to between the parties;
- .2** A mutually accepted, lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;
- .3** Costs, fees and any other markups set forth in the Agreement; and
- .4** If an increase or decrease cannot be agreed to as set forth in items .1 through .3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense

and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement. If the net result of both additions and deletions to the Work is an increase in the Contract Price, overhead and profit shall be calculated on the basis of the net increase to the Contract Price. If the net result of both additions and deletions to the Work is a decrease in the Contract Price, there shall be no overhead or profit adjustment to the Contract Price. Design-Builder shall maintain a documented, itemized accounting evidencing the expenses and savings associated with such changes

9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

9.4.3 If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services and (ii) receipt of such payment by Design-Builder does not prejudice

Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

9.5 Emergencies

9.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

Article 10

Contract Adjustments and Disputes

10.1 Requests for Contract Adjustments and Relief

10.1.1 If either Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one (21) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

10.2 Dispute Avoidance and Resolution

10.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

10.2.2 Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative.

10.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

10.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit the dispute or disagreement to non-binding mediation. The mediator shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator.

10.3 Litigation

10.3.1 Any disputes not resolved through mediation shall be litigated with venue being in Broward County, Florida and governed in accordance with the laws of the State of Florida. Costs of the action, including reasonable attorney's fees shall be recoverable by the prevailing party.

10.3.2 (Deleted)

10.3.3 (Deleted)

10.3.4 (Deleted)

10.4 Duty to Continue Performance

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and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of work by Owner.

11.2 Owner's Right to Perform and Terminate for Cause

11.2.1 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

11.2.3 Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ

10.4.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

10.5 CONSEQUENTIAL DAMAGES

10.5.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.5.2 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

10.5.2 The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect the payment of liquidated damages, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner for some damages that might otherwise be deemed to be consequential.

Article 11

Stop Work and Termination for Cause

11.1 Owner's Right to Stop Work

11.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop

any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.

11.2.4 If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.

11.3 Design-Builder's Right to Stop Work

11.3.1 Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop work for the following reasons:

- .1 Owner's failure to provide financial assurances as required under Section 3.3 hereof, or
- .2 Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

11.3.2 Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. If Owner does not cure the problem within such seven (7) day period, Design-

Builder may stop work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

11.4 Design-Builder's Right to Terminate for Cause

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

- .1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.
- .2 Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.
- .3 Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to

cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

11.5 Bankruptcy of Owner or Design-Builder

11.5.1 If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

- .1** The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and
- .2** The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

Article 12

Miscellaneous

12.1 Assignment

12.1.1 Neither Design-Builder nor Owner shall, without the written consent of the other, assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

12.2 Successorship

12.2.1 Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

12.3 Governing Law

12.3.1 The Agreement and all Contract Documents shall be governed by the laws of the place of the Project, without giving effect to its conflict of law principles.

12.4 Severability

12.4.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

12.5 No Waiver

12.5.1 The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

12.6 Headings

12.6.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall

not in any way be construed to limit or alter the meaning of any provision.

12.7 Notice

12.7.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement or (iii) if

transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient.

12.8 Amendments

12.8.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

January 13, 2000

**REQUEST FOR PROPOSALS
DESIGN/BUILD
WATERFORD PARK IMPROVEMENTS (REVISED SCOPE)
BID NO. 99-131
Town of Davie, Florida**

NATURE OF REQUEST: Pursuant to Florida Statutes, Chapter 287.055 (Consultants Competitive Negotiation Act) the Town of Davie invites qualified design/build firms or joint ventures between an architect and/or engineer, and a general contractor to submit proposals for consideration to construct an in-line roller hockey rink, a parking lot expansion including lighting, lighting of the existing playground, and enhance landscaping, and associated site improvements (i.e. irrigation, drainage and lighting). As part of the proposal, the design/build firms are asked to submit statements of qualifications and experience in the design and construction of this type of project, a list of related projects, resumes of key personnel, and Standard Forms 254 and 255.

BACKGROUND: The proposed project is a part of the recreational bond issue program approved by the Town of Davie in November 1998. The Town is proposing the development of the park to include the construction of an enlarged in-line roller hockey rink, lighting of the existing playground, enhanced landscaping, and to enlarge the parking facilities including lighting.

SCOPE OF WORK: Provide professional services, labor, materials, equipment, insurance and incidentals for the design/build of a new in-line roller hockey rink, a parking lot expansion, light the existing playground, enhance landscaping, and associated site work (i.e. irrigation, drainage, and lighting). The design/build firm will perform each of the tasks customary to the practice for the preparation of the documents for the Waterford Park Improvements project, including preparation of schematic design of the site and landscaping plan and outline specifications, and upon Town of Davie's approval, preparation of a full set of drawings and specifications. It will be the responsibility of the selected contractor to acquire all applicable permits for this project. The contractor shall assume that all Town of Davie permit fees will be paid for by or waived by the Town of Davie. The design/build firm will work in close coordination with Town of Davie staff in carrying out the project.

All work shall be performed in accordance to the latest edition of all applicable Codes including, but not limited to, the South Florida Building Code; Broward County Edition; Town of Davie Land Development Code; Town of Davie Code of Ordinances; Broward County Code of Ordinances; ADA; and NFPA 101.

The entrance to Waterford Park is at **15090 South Waterford Drive, Davie, Florida**. The attached location map show the project site within Waterford Park.

The Town of Davie shall reserve the right to accept optional items to determine the total contract price. The budget for this project is **\$ 100,000.00**.

CONSTRUCTION SCHEDULE:

The design and construction schedule for this project shall be **one hundred twenty (120) days** after Notice to Proceed. It is mutually agreed between the parties hereto that time is of the essence of this Contract, and in the event construction of the work is not completed within the time herein specified, it is agreed that from the compensation otherwise to be paid to the Contractor, the Owner may retain **liquidated damages** at the rate of two hundred fifty dollars (\$250.00) per day for each day thereafter, Sundays and holidays included, that the work remains uncompleted, which sum will represent the actual damages which the Owner will have sustained per day by the failure of the Contractor to complete the work within the time stipulated, and the sum is not a penalty, being the liquidated damages the Owner will have sustained in the event of such default by the Contractor.

The following shall be included in the project:

- **One In-Line Roller Hockey Rink:** (Approx. 58' wide x 150' long)
One existing tennis court and one small existing roller rink area shall be converted to one enlarged in-line roller hockey rink and practice area. Remove the existing tennis nets and existing net posts and return to Owner. Remove a portion of chain link fence surrounding these courts (refer to attached site plan) and reinstall in appropriate location. Install new 10' high chain link fence as required to complete perimeter of roller hockey rink as shown on attached plan. Provide one 4' wide gate along the east side of the hockey rink and one 4' wide gate on the north side of the rink. Asphalt is existing. Resurface the existing asphalt as required to eliminate all cracks, holes, and defects as required in order to obtain a smooth surface whose surface variation does not exceed 1/8" in ten feet when measured in any direction with a straightedge.

Hockey rink surface shall be equal to the specifications of the "California Products Corporation" with one (1) coat of Acrylic Resurfacer, two (2) coats of fortified Plexipave, two (2) coats of Plexiflor, separately applied per manufacturer's specifications. Playing lines shall be painted with Plexicolor Line Paint on the rink in proper scale to the rink's overall dimensions, as specified by the National In-Line Hockey Association.

Provide and install two (2) roller hockey goals, consisting of frames, knotted hockey nets and locking mechanism.

Provide deflector boards and side boards for the roller hockey rink. The deflector boards and side boards shall be attached to existing and new chain link fencing (refer to attached plan). The panels shall be 42" high, white 3/4" U.V. stabilized high density polyethylene (HDPE) equal to the "Pro 3000" line manufactured by Border Patrol Rink Systems in Minneapolis, MN, telephone 1-800-809-RINK, or the McDasherboard II system, as approved by the Town of Davie. The entire system shall be manufactured by the same company, and shall be installed by a factory certified installation crew. Additionally the entire assembly shall include a five (5) year parts and labor warranty, including workmanship. The panels may be flush mount design suitable for mounting on existing and new chain link fence support poles. Add additional vertical

support poles at 4'-0" o.c maximum, as needed, between existing poles. Provide horizontal reinforcing of fence posts at 42" above finish floor to support the top of the dasherboard system. All components of framing system and fasteners shall be stainless, galvanized, or zinc coated for weather protection. All components of framing system shall be 1 1/4" diameter minimum. Provide two (2) 4' wide walk gates, one at east and one at north end of rink, with latch mechanism. Provide yellow 6" HDPE kick plate, with rounded edges, around the entire bottom of rink.

This in-line roller hockey rink shall be similar in design and construction to the existing roller hockey rink in Shenandoah Park, located at 14001 SW 14 Street, in the Town of Davie.

- **Parking Lot Expansion:**

Provide parking for fourteen (14) additional spaces in enlarged parking lot, including two (2) new handicap spaces, as shown on attached schematic site plan. Sub grade for the parking area shall be compacted to a minimum of 98% of the maximum density (AASHTO T-180-74). The sub grade shall be 12" stabilized with LBR 40 limerock. Base course material for paved area shall be a minimum thickness of 8" placed in a single layer. Base course shall be compacted to 98% of the maximum density as per AASHTO T-180-74. Installation of the wearing surface shall conform with the requirements of the D.O.T. standard specifications 1" type S-III asphaltic concrete or the latest revision for the approved Broward County mix. Parking lots shall slope 1/4" per foot and shall sheet flow to retention area on site.

Provide and install one **precast concrete wheel stop** for each parking space. Each shall be permanently fastened to asphalt with two 12" #5 spikes.

Provide painted **striping** to identify parking spaces. Paint two handicap parking spaces per Code. Provide and install two handicap parking signs. Note that the existing handicap parking space will need to be re-striped to make it a regular non-handicap space.

- **Asphalt Recreational Path:**

Install a 6' wide asphalt path where indicated on attached Master Plan. Path shall be 1" Florida D.O.T. Type III asphaltic concrete over 6" compacted lime rock base, compacted to 98% of T-180 over well compacted sub-base. Remove vegetation, debris, unsatisfactory soil materials, obstructions, and deleterious materials from path area.

Demolish that portion of the existing asphalt path that is in the way of new construction, as shown on the attached plan. Tie in new asphalt path to existing asphalt path to provide a continuous surface.

- **Parking Area Lighting:**

Provide lighting for the new parking area which shall maintain a 12:1 maximum to minimum ratio, and 1 foot-candle minimum level. New fixtures and poles shall match the existing lighting in the existing parking lot at Waterford Park. Lighting shall limit objectionable spill lighting outside of the parking area per Town of Davie Code of Ordinances. Lighting shall be regulated by a photoelectric cell.

- **Playground Lighting:**

Provide and install lighting for the existing playground which shall maintain a 12:1 maximum to minimum ratio, and a two (2) foot candle minimum level. Provide a uniformity ratio (maximum to minimum) of 4.0 or better. New fixtures and poles shall resemble the existing lighting in the existing parking lot at Waterford Park. Provide a minimum of two poles to limit objectionable shadows. Lighting shall also limit objectionable spill light of the playground area per the Town of Davie Code of Ordinances. Lighting shall be regulated by a controlled access breaker at the existing panel location.

- **Sports Lighting:**

The in-line roller hockey rink has existing sports lighting. The Contractor shall review the location of the existing poles and lights to assure that all areas of the courts and hockey rink are adequately lit at a minimum maintained level of 40 foot-candles. Reposition and / re-aim the lights as required to assure compliance with these criteria.

- **Chain Link Fencing:**

Hot dip galvanized fabric and schedule 40 pipe, 2" 9 gauge fabric, 3" terminals, schedule 40, 2 1/8" line posts, 1 5/8" top rail, 1 5/8" brace and truss, 7 gauge bottom tension wire, 9 gauge steel hog rings and tie wires. Height shall be as shown on attached site plan.

Note that some of the fencing required for the Roller Hockey Rink is already in place. However, the Contractor shall remove the existing 90 degree angled corners as needed, and provide and install chain link fencing as required to provide for the 20'-0" radius corners for the roller hockey rink. Some of the existing chain link fencing in the area of the rink must be relocated to position the fence on the inside face of the existing concrete poles which will allow for the installation of the dasherboard system without any vertical obstructions within the rink itself. Install intermediate vertical support posts, 1 3/8" minimum diameter in order to provide vertical supports at approximately 4' on center. Install a horizontal member, 1 3/8" minimum diameter at the height of 42' A.F.F. to support the top of the dasherboard system.

- **Backstop Relocation:**

Relocate existing baseball / softball backstop and two associated wooden players benches as indicated on the attached master plan. If backstop is damaged during relocation, a new backstop shall be provided and installed.

LANDSCAPING:

All portions of the project area not in paved or hard surface shall be sodded with Argentina Bahia Sod. The Contractor shall be required to replace all existing sod and landscaping material damaged or destroyed by his or her forces during the construction process to their preconstruction condition.

Tree material shall be Florida Number 1 grade, a minimum of three (3) inch caliper, and twelve to fourteen (12'-14') foot height. A landscape plan shall be submitted to the Owner for approval prior to installation. At a minimum the landscape plan shall include six (6) new trees. All trees shall have a one year replacement warranty. Should any tree die or be in a state of unnatural decline within a period of one (1) year of project acceptance by the Owner, the Contractor shall be required to replace the tree within sixty (60) days of that determination at no charge to the Owner.

Five (5) small existing trees shall be transplanted from the location of the new parking lot as shown on the site plan. They shall be relocated within the park as directed by the Town of Davie.

Additionally, along the east property line of the park there is an existing ficus hedge which runs adjacent to the existing wooden fence. Toward the southerly end of the park, provide and install a portion of new hedge as required to make this hedge continuous.

Some removal of existing hedge material will be required in order to construct the parking lot expansion, as shown on attached plan.

IRRIGATION: All portions of the project area not in paved or hard surface shall be irrigated with 50% overlap providing 100% coverage, utilizing Toro 640 series Ball Drive Full or Part Circle Rotors. Any elements of the existing irrigation system taken out of working order by the construction of this project shall be reconfigured and installed as an extension of the existing system in order to restore full coverage. This shall be accomplished by adding zones without compromising the existing system. The Contractor shall also be responsible to repair or replace all existing irrigation system components damaged or destroyed by his or her forces during construction to their preconstruction condition.

SELECTION PROCESS:

A. The Selection/Negotiating Committee will first evaluate all Bidder qualifications, and references as contained in Envelope "A" (see page 7). The Committee will select and short list qualified design/build firms.

B. If your team is short listed, you will be asked to prepare Envelope "B" (see pages 8) containing the price proposals, estimated time of completion, technical submittal, schematic design, and bid bond.

C. The Committee's evaluation process will include presentations by the short listed firms and consideration of price proposals.

D. The Committee will negotiate a final agreement with the best evaluated

Proposer.

E. Upon completion of successful negotiations a recommendation of award will be submitted to the Town Council for approval.

EVALUATION: Proposals will be evaluated in accordance with criteria listed below:

- Technical Proposal
- Consistency of Schematic Drawings with Design Principles
- Firm Qualifications and References
- Consistency with or Enhancement of Designated Project Schedule
- Project Cost

The contract shall be awarded to the responsible Proposer whose submittal is determined to be the most advantageous to the Town of Davie, taking into consideration the aforesaid evaluation criteria.

As the best interest of the Town may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received. Proposers are cautioned to make no assumptions unless their proposal has been evaluated as being responsive.

BONDING: Each bid must be accompanied by a certified check or acceptable bid bond in the amount of five percent (5%) of the total bid price as guarantee that the Proposer, if awarded the Contract, will within seven (7) consecutive days after prescribed forms are presented to him for signature, enter into a contract with the Town of Davie in accordance with the accepted proposal and give a performance and payment bond satisfactory to the Town, equal to one hundred percent (100%) of the total contract price.

INSURANCE: The Contractor shall furnish proof of Worker's Compensation, Insurance, Commercial General Liability Insurance, Automobile Liability Insurance and Professional Liability Insurance. The Contractor shall carry in force at all times the insurance coverage and the Town will be included as "Additional Insured".

A. WORKER'S COMPENSATION & EMPLOYER'S LIABILITY

INSURANCE Limits:

- | | |
|-----------------------|---------------------------|
| Worker's Compensation | - Statutory |
| Employer Liability | - \$100,000 each accident |
| Disease | - \$500,000 policy limit |
| Disease | - \$100,000 each employee |

B. COMMERCIAL GENERAL LIABILITY INSURANCE - coverage shall provide minimum limits of Liability of \$500,000 per occurrence, Combined Single Limit for Bodily Injury and Property Damage. This shall include coverage for:

- Premises/Operations
- Products/Completed Operations
- Contractual Liability
- Independent Contractors

C. BUSINESS AUTO LIABILITY - coverage shall provide minimum limits of liability of \$500,000 per occurrence Combined Single Limit for Bodily Injury and Property Damage. This shall include coverage for: owned autos, hired autos, non-owned autos.

D. PROFESSIONAL LIABILITY INSURANCE - coverage shall provide minimum limit of liability of \$250,000 per occurrence.

Each policy shall state that the Town will be given fifteen (15) days written notice of any cancellation or material change in any policy. Insurance must be furnished to the Town's Purchasing Division and notification received of its approval PRIOR TO THE COMMENCEMENT of any work. Failure to maintain required coverage will result in the recommendation to terminate the contract immediately.

INDEMNITY: The Contractor agrees to indemnify and hold harmless the Town, its officers, agents, and employees from any and all liability, defense costs, including attorney's fees, and all other fees incidental to the defense, loss, or damage the Town may suffer as a result of claims, demands, costs, or judgments against it arising from the subject project. Nothing in this agreement shall be construed to affect in any way the Town's rights, privileges and immunities as set forth in Florida Statutes 768.28.

PUBLIC ENTITY CRIMES INFORMATION: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.0171, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

CONTENT OF PROPOSAL:

Proposals should include but not be limited to the following information.

Envelope "A" shall include:

1. Name, address and telephone number/fax number of your firm.
2. Type of organization, (i.e. individual, partnership, corporation, joint venture, etc.), year established and General Contractor's License Number.
3. Principal of firm.
4. Name of contact person at firm.
5. Description of Firm or Team: Standard Forms 254 and 255 - Proposer is encouraged to provide supplemental information, as appropriate, to demonstrate firm or team capabilities.
6. Recent projects best illustrating current qualifications for this project, including contact persons and prime design consultant on each project (w/address and telephone number).
7. Previous Projects: Standard Forms 254 and 255 - provide highlights of your previous relevant work experience, photos, photocopies or graphics, as appropriate.
8. Name, address and telephone number of prime design consultant for this

project, including list of previous completed projects of like work.
9. Any other information you feel is appropriate to assist in contract selection.

Envelope "B" shall include:

1. Total project cost (include project budget breakdown with base costs, contingency and architectural/engineering fees).
2. Time required to complete project (design, permitting, site work and construction).
3. Bid bond submission. The bidder will submit along with his bid (a) evidence that he is licensed to perform the work and services or qualified by examination or reciprocity to be so licensed and (b) a certified check or bid bond in the amount of five percent (5%) of the bid as a guarantee that the Bidder, if awarded the Contract will within seven (7) consecutive days after written notice be given of such award, enter into a written contract with the Town of Davie, Florida, in accordance with his / her successful bid. The successful bidder will submit Payment and Performance Bonds satisfactory to the Town of Davie, Florida, equal to one hundred percent (100%) of the contract price, and will submit other required documents as needed.
4. Brief summary of design concepts and construction materials for in line roller hockey rink, and landscaping proposal.
5. Schematic design(s) of proposed overall site plan and landscaping design.

REGISTRATION OF LOBBYISTS:

Firms or Individuals which wish to contact any official of the Town outside of the written request for information procedure must first register with the Town Clerk as a lobbyist for the Request for Proposal. Failure to register before contacting any official will result in disqualification from the proposal and submissions will not be considered. Lobbying Registration Certificates (attached hereto) should be mailed to:

Town of Davie
Town Clerk
6591 Orange Drive
Davie, FL 33314-3399

SUBMITTAL OF PROPOSALS:

Interested firms shall submit their proposal by 2:00 p.m. on _____, 2000 at Town Hall, 6591 Orange Drive, Davie, Florida 33314-3399. Seven (7) copies of the proposal consisting on one (1) envelope marked "A" shall be submitted to:

Herb Hyman, Procurement Manager
Town of Davie
6591 Orange Drive
Davie, Florida 33314-3399

Mark the front of envelope:

**"SEALED PROPOSAL DESIGN/BUILD
WATERFORD PARK IMPROVEMENTS
BID NO. 99-131".
Envelope "A"**

PRICING PAGE

DESIGN/BUILD WATERFORD PARK IMPROVEMENTS

Base Cost_____

Contingency_____

Fees_____

Total Base Bid Amount_____

Number of Days for Project Completion_____

Bidder:_____

Address:_____

Telephone number:_____

By:_____

signature

Title:_____

Date:_____



THE HASKELL COMPANY
TOTAL FACILITY SOLUTIONS

B I D PROPOSAL

To: Mr. Herb Hyman
Town of Davie, Purchasing Division
6591 Orange Drive
Davie, Florida 33314

RE: Design-Build Improvements to Waterford Park, Project B-99-131

REVISED: February 1, 2000

BIDDER: The Haskell Company
CONTACT: Norman C. Anderson
BIDDER'S ADDRESS: 111 Riverside Ave.
Jacksonville, Florida 32202
TELEPHONE NUMBER: (904) 357-4868

The undersigned having visited and examined the site of the work, and having carefully studied the bid documents, hereby proposes to furnish all labor, materials, tools, equipment, safety services, and required licenses necessary to perform the design-build services called for in the bid documents, and to perform all operations necessary to execute and complete such work in a quality, workman-like manner in accordance with the requirements called for in the bid documents for the proposed bid prices listed below.

<u>BASE BID ITEMS</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>PRICE</u>
Project Management, Design and Permitting	1	EA	\$ 11,900.00
In-Line Roller Blade Hockey Rink	1	EA	\$ 36,000.00
Parking Lot Expansion/Recreational Path	1	EA	\$ 21,300.00
Parking Area Lighting	1	EA	\$ 5,900.00
Hockey Rink Lighting	1	EA	\$ -
Playground Lighting	1	EA	\$ 11,200.00
Landscaping and Irrigation	1	EA	\$ 2,800.00
Backstop Relocation	1	EA	\$ 1,800.00
Base Cost Subtotal			\$ 90,900.00
Contingency			\$ -
Overhead (7%) and Fee (3%)			\$ 9,090.50
Total Base Bid Amount			\$ 99,990.50



THE HASKELL COMPANY
TOTAL FACILITY SOLUTIONS

C. LIST OF CLARIFICATIONS AND UNDERSTANDINGS

The Haskell Company's proposal is based on the following clarifications and understandings. This list includes items considered by The Haskell Company in the preparation of this proposal and included in this bid.

In-line Roller Hockey Rink

Roller hockey rink shall be approximately 52' wide x 150' long constructed similar to Shenandoah hockey rink. Two hockey goals will be provided. Tennis nets shall be removed and returned to Owner. Existing east-west fence shall be removed. Postholes shall be filled with earth and covered with concrete. Existing court asphalt surface defects and cracks will be repaired to smooth surface.

Haskell will surface court areas as to California Products Corporation specifications, using Plexipave materials, as follows:

- one (1) coat Acrylic Resurfacer to "fill in" existing voids in the asphalt
- two (2) coats Fortified Plexipave to provide uniformity & color depth
- two (2) coats Plexi-flor to provide durability & ease of puck action

Playing lines required for the rink will be painted in proper scale to overall rink dimensions.

New 10' high fencing shall be installed with 42" intermediate support posts as required to mount and support dasher/side boards. Haskell will supply and install $\frac{1}{4}$ " thick UV stabilized, natural white high density polyethylene panels (H.D.P.E.) 42", with two (2) doors for entrance to rink and install yellow Ultra High-Density Polyethylene (U.H.D.P.E.) UV resistance rated "kick plate" ($\frac{3}{4}$ " thick x 6" high). Perimeter rink fence will be 6 gauge, black vinyl mesh LCX fabric..

Parking Area

Fourteen new parking spaces, including two handicap spaces will be installed to approximate dimensions shown in RFP drawings. Haskell proposal includes "12" stabilized sub grade to FBV 75 psi, 8" limerock base compacted to 98% AASHTO T-180, with 1" type S-III asphalt" in lieu of RFP specifications. Signs, precast concrete wheelstops, all striping and markings will be installed as required.

Surface water will be directed through existing parking area to storm drain outlet in Waterford Drive at entry to parking area in lieu of to "retention area on site".

Recreational Path

An access path will be installed to allow wheelchair access from the parking to the park perimeter path. Existing recreational path will be removed as required for new parking area and new 6' wide path installed per specifications.

HASKELL BUILDING ♦ JACKSONVILLE, FLORIDA 32231-4100 ♦ 904/791-4500 FAX 904/791-4699



Owner staff will provide The Haskell Company with any available as-built site information and assist THC in locating any park utility and irrigation systems.

Sports Lighting

Existing sports lighting has several fixtures that have been disconnected. Haskell proposes to adjust the existing functioning sports lights to assure that the hockey rink is lit to the extent possible with the existing lighting.

Parking Area Lighting

Haskell will install two new 25' brushed aluminum poles on concrete with 400-watt ball lighting fixtures for lighting new parking lot. Lighting will comply with IES standards but may not comply with specifications. New breakers, conduit and conductors will be installed to power new lighting. Haskell assumed existing power service was adequate to feed new lighting fixtures.

Playground Lighting

Haskell will install three new 35' brushed aluminum poles with 1000-watt lighting fixtures for lighting existing playground equipment. Lighting will be installed to IES standards but may not comply with specifications. New breakers, conduit and conductors will be installed to power new lighting. Haskell assumed existing power service was adequate to feed new lighting fixtures.

Landscaping and Irrigation

Haskell will relocate five existing trees to area adjacent to parking as required to install new parking area. Sod will be installed in disturbed areas left bare by construction. Some of the existing hedge that can be excavated and reinstalled will be relocated to areas adjacent to new parking area. No new hedge will be supplied for parking area.

New 48" hedge plants will be installed to fill in gap in hedge in southeast corner of parking area. Hedge plants will have capacity to grow to fill gap and match existing hedge.

Any damage to existing irrigation system will be repaired or replaced to preconstruction condition. Existing irrigation system will be adjusted to irrigate relocated hedge and trees.

PRICING PAGE

DESIGN/BUILD WATERFORD PARK IMPROVEMENTS

Base Cost 90,905.00
Contingency 0.00
Fees 9,090.50

Total Base Bid Amount 99,995.50

Number of Days for Project Completion 120

Bidder: The Haskell Company
Address: 111 Riverside Ave., Jacksonville, FL
Telephone number: (904) 357-4868

By: [Signature]
signature

Title: Project Director

Date: 1/31/00

ACORD CERTIFICATE OF LIABILITY INSURANCE

PAGE 1 OF 2

DATE (MM/DD/YY)
28-OCT-1999

PRODUCER
Willis Corroon Corporation of Florida
7650 Courtney Campbell
Causeway, Suite 920
Tampa FL 33607
(813) 281-2095

32051

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY Liberty Mutual Insurance Company
A National Accounts Division

Shari Segall

INSURED

The Haskell Company
P.O. Box 44100
Attn: Sue Ferris
Jacksonville FL 32231-4100

COMPANY B

COMPANY C

COMPANY D

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT <input type="checkbox"/>	RG2651004139028	01-DEC-1998	01-JAN-2000	GENERAL AGGREGATE	\$ 5,000,000
					PRODUCTS-COMP/OP	\$ 5,000,000
					PERSONAL & ADV INJURY	\$ 5,000,000
					EACH OCCURRENCE	\$ 5,000,000
					FIRE DAMAGE (Any one fire)	\$ 50,000
					MED EXP (Any one person)	\$ 5,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/>	AS2651004139038	01-DEC-1998	01-JAN-2000	COMBINED SINGLE LIMIT	\$ 2,000,000
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE	\$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/>				AUTO ONLY - EACH ACCIDENT	\$
					OTHER THAN AUTO ONLY	\$
					EACH ACCIDENT	\$
					AGGREGATE	\$
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE	\$
					AGGREGATE	\$
						\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL	EW765N004139058	01-DEC-1998	01-JAN-2000	WC STATUTORY LIMITS	OTHER
					EL EACH ACCIDENT	\$ 1,000,000
					EL DISEASE-POLICY LIMIT	\$ 1,000,000
					EL DISEASE-EA EMPLOYEE	\$ 1,000,000
A	OTHER Professional Liability	00004218	01-DEC-1998	01-DEC-1999	\$1,000,000 limit	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

SEE ATTACHED

CERTIFICATE HOLDER

Herb Hyman, Procurement Manager
Town of Davie
6591 Orange Drive
Davie FL 33143

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENT OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

[Signature]

Willis

CERTIFICATE OF INSURANCE

PAGE 2 OF 2

ISSUE DATE (MM/DD/YY)

28-OCT-1999

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The Haskell Company
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Attn: Sue Ferris
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Willis Corroon Corporation of Florida
7650 Courtney Campbell
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Shari Segall

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TYPE OF INSURANCE

POLICY NUMBER

POLICY EFFECTIVE
DATE (MM/DD/YY)POLICY EXPIRATION
DATE (MM/DD/YY)

LIMITS

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Workers Compensation Statutory Limits: Excess of Qualified Self Insured Retention

Project: Waterford Park Improvements, B-99-131, Town of Davie

It is agreed that the certificate holder is an Additional Insured as respects General Liability & Automobile Liability coverages, but solely in regards to work performed and vehicles used by or on behalf of the Named Insured in connection with the described project.

CERTIFICATE HOLDER

Herb Hyman, Procurement Manager
Town of Davie
6591 Orange Drive
Davie FL 33143

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AUTHORIZED REPRESENTATIVE



WILLIS 25W1 (9/95)

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THE HASKELL COMPANY
TOTAL FACILITY SOLUTIONS

BUILDER'S DEVIATION LIST

The Haskell Company's proposal is modified to include the following clarifications and deviations:

- The parking area lighting shall meet the Town of Davie Code requirement of a 12:1 maximum to minimum ratio, as per RFP.
- The height of playground light poles shall be a maximum of 25' high, and lighting requirements need only meet the recommendations of the Illuminating Engineering Society of North America Handbook.
- The parking area sub grade shall be prepared to LBR 40, per RFP.
- The backstop and benches shall be relocated to the northwest corner of the open field to a location that shall be selected by the Owner.
- Builder will use Town of Davie purchase orders to purchase major material items as requested by the Builder to reduce incurred tax expense with no reduction in project contract value.

By: MLDL

Title: Project Director

Date: 2/21/00